

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 21 JUL 2004

WIPO

PCT

| | | |
|---|---|--|
| Applicant's or agent's file reference 482134MDA/mzg | FOR FURTHER ACTION | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416). |
| International Application No. PCT/NZ2003/000122 | International Filing Date (day/month/year) 17 June 2003 | Priority Date (day/month/year) 17 June 2002 |
| International Patent Classification (IPC) or national classification and IPC Int. Cl.⁷ G01N 33/24, G01L 7/18, G01L 11/02 | | |
| Applicant LANDCARE RESEARCH NEW ZEALAND LIMITED et al | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 8 sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

| | |
|---|--|
| Date of submission of the demand 19 December 2003 | Date of completion of the report 13 July 2004 |
| Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929 | Authorized Officer GREG POWELL Telephone No. (02) 6283 2308 |

I. Basis of the report**1. With regard to the elements of the international application:***

- ☐ the international application as originally filed.
- ☒ the description, pages 1, 4, 6, 8-13, as originally filed,
pages , filed with the demand,
pages 2, 3, 5, 7, received on 05 July 2004 with the letter of 29 June 2004
- ☒ the claims, pages , as originally filed,
pages , as amended (together with any statement) under Article 19,
pages , filed with the demand,
pages 14-17, received on 05 July 2004 with the letter of 29 June 2004
- ☒ the drawings, pages 1/9 - 9/9, as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

| | | |
|-------------------------------|-------------|-----|
| Novelty (N) | Claims 1-16 | YES |
| | Claims | NO |
| Inventive step (IS) | Claims 1-16 | YES |
| | Claims | NO |
| Industrial applicability (IA) | Claims 1-16 | YES |
| | Claims | NO |

2. Citations and explanations (Rule 70.7)

D1) RU 2102721 C1

NOVELTY (N) Claims 1-16

Document D1 is representative of the closest prior art.

The device depicted in D1 was designed to be used for measuring the bubbling pressure (i.e. air entry pressure) of a soil sample, which involves only a single drying step of the soil sample (the bubbling pressure is determined as the soil water tension of a soil sample when the air just begins to enter the saturated soil). The feature of moving the measuring capillary up and down is not disclosed by D1. Instead, document D1 describes moving the vessel containing a soil sample up and down, along the post 2. Consequently, the claimed invention appears to be novel.

INVENTIVE STEP (IS) Claims 1-16

The subject matter of the present application involves measuring the moisture retention curve of a soil sample at several soil moisture tension levels. The prior art method for obtaining a soil water retention curve involves transferring the soil sample to a weighing apparatus in order to estimate the moisture content. The repeated soil handling often introduces significant errors due to disturbing the original soil structure. The claimed invention avoids the undesirable moving and transferring of soil, which improves the reliability of the results. Consequently, it is considered that Claims 1-16 involve an inventive step.